

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

JOHN SKINNER, Register No. 1069523,)	
)	
Plaintiff,)	
)	
v.)	No. 07-4046-CV-C-SOW
)	
DAVE DORMIRE,)	
)	
Defendant.)	

ORDER

On July 31, 2007, United States Magistrate Judge William A. Knox recommended dismissing plaintiff's claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on August 9, 2007. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

Plaintiff's conclusory allegations that he was denied access to the grievance procedures are not supported by the record. Plaintiff has failed to refute the sworn statement of the Missouri Department of Corrections Administrator providing that plaintiff has not exhausted his claims. Plaintiff's claims against defendant Dormire are, therefore, dismissed, without prejudice, pursuant to 42 U.S.C. § 1997e. See Sergeant v. Norris, 330 F.3d 1084, 1085-86 (8th Cir. 2003) (per curiam) (finding no evidence in record that inmate was prevented from effectively utilizing grievance procedures). See also Maddix v. Crawford, 216 Fed. Appx. 605, 606 (8th Cir. 2007) (unpublished) (claims properly dismissed for failure to exhaust administrative remedies because record did not support plaintiff's assertion that his attempt to exhaust his claims were thwarted by defendants).

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that the Report and Recommendation of July 31, 2007, is adopted. [22] It is further

ORDERED that plaintiff's claims are dismissed, without prejudice, for failure to exhaust administrative remedies, pursuant to 42 U.S.C. § 1997e. [16]

/s/Scott O. Wright
SCOTT O. WRIGHT
Senior United States District Judge

Dated: September 4, 2007